

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

<b>JAMES M. MARTIN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 5:11-CV-192 (MTT)</b>
	)	
<b>Lieutenant JOHNNY McDANIEL</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**ORDER**

This case is before the Court on the Recommendation of United States Magistrate Judge Stephen Hyles. (Doc. 53). The Magistrate Judge, having reviewed the Defendant's Motion to Dismiss (Doc. 38) and the Plaintiff's various Motions,<sup>1</sup> recommends granting the Defendant's Motion because the Plaintiff failed to exhaust his available administrative remedies pursuant to 42 U.S.C. § 1997e(a) and recommends denying the Plaintiff's Motions as moot.

The Plaintiff filed an objection to the Recommendation. (Doc. 54). Pursuant to 28 U.S.C. § 636(b)(1), the Court has considered the Plaintiff's objections and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects. The Plaintiff argues that he exhausted his administrative remedies because the

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<sup>1</sup> The Plaintiff's Motions include: Motion for Seizure of Property Belonging to Defendant (Doc. 33); Motion for Enforcement of Administrative Summons for Discovery (Doc. 36); Motion to Stay (Doc. 41); Motion to Supplement Record and Strike Defendant's Motion to Dismiss (Doc. 44); Motion to Reinstitute and Process Summons (Doc. 46); Motion for Limited Discovery (Doc. 49); and Motion to Amend/Correct Motion for Limited Discovery (Doc. 50).

grievance counselors failed to provide him with the opportunity to file an emergency grievance and instead, required him to file an informal grievance. (Doc. 54 at 9). However, the Plaintiff fails to explain why he did not comply with the prison's non-emergency grievance process, which he is required to comply with if a counselor determines that his grievance is not an emergency. (Doc. 38-7 at 10-11). Nor did the Plaintiff mention the counselors' failure to classify his grievance as an emergency in the grievance.

The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. The Recommendation is adopted and made the order of this Court. Therefore, the Defendant's Motion to Dismiss (Doc. 38) is **GRANTED**, and the Plaintiff's Motions (Docs. 33, 36, 41, 44, 46, 49, and 50) are **DENIED as moot**. This case is **DISMISSED**.

**SO ORDERED**, this the 6th day of March, 2013.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT